



DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2014-0006]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for exemption from the vision requirement, request for comments.

SUMMARY: FMCSA announces receipt of applications from 34 individuals for exemption from the vision requirement for operating a commercial motor vehicle (CMV) in the Federal Motor Carrier Safety Regulations. The applicants are unable to meet the vision requirement in one eye for various reasons. The exemptions will allow these individuals to operate CMVs in interstate commerce without meeting the prescribed vision requirement in one eye. At the end of the comment period, the Agency will grant exemptions to the applicants listed herein if there are no adverse comments that indicate the driver's ability will not achieve a level of safety equivalent to or greater than the level of safety that would be obtained by complying with the regulations. All comments will be reviewed and evaluated by FMCSA. Some individuals appearing in this notice may not receive exemptions based on comments received during the comment period. Individuals not granted an exemption may either be published at a future date based on further evaluation or may not be deemed to meet the aforementioned level of safety if granted an exemption. These individuals will be published in a quarterly notice of exemption denials. As always, any adverse comments received after the exemption is granted will be evaluated, and if they indicate that the driver is not achieving a level of

safety equivalent to or greater than the level of safety that would be obtained by complying with the regulation, the exemption will be revoked. When granted, the exemptions will allow these individuals with vision deficiencies in one eye to operate in interstate commerce.

DATES: Comments must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. All comments will be investigated by FMCSA. The exemptions will be issued the day after the comment period closes.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA-2014-0006 using any of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- Mail: Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, S.E., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.
- Hand Delivery: West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, S.E., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- Fax: 1-202-493-2251.

Instructions: Each submission must include the Agency name and the docket numbers for this notice. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to <http://www.regulations.gov> at any time or Room W12-140 on the ground level of the West Building, 1200 New Jersey Avenue, S.E., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the Federal Register on January 17, 2008 (73 FR 3316).

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief,
Medical Programs Division, (202) 366-4001, fmcsamedical@dot.gov, FMCSA,
Department of Transportation, 1200 New Jersey Avenue, S.E., Room W64-224,
Washington, DC 20590-0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal Motor Carrier Safety Regulations for a 2-year period if it finds “such exemption would likely achieve a level of safety that is equivalent to or greater than the level that

would be achieved absent such exemption.” The statute also allows the Agency to renew exemptions at the end of the 2-year period. The 34 individuals listed in this notice have recently requested such an exemption from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency has evaluated the qualifications of each applicant to determine whether granting an exemption will achieve the required level of safety mandated by statute.

Qualifications of Applicants

Abdullahi M. Abukar

Mr. Abukar, 29, has a prosthetic right eye due to a traumatic incident in 2009. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, “Patient is capable of operating commercial vehicle.” Mr. Abukar reported that he has driven straight trucks for 6 years, accumulating 31,200 miles, and tractor-trailer combinations for 19 months, accumulating 5200 miles. He holds a Class DA CDL from Kentucky. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Gregory K. Banister

Mr. Banister, 52, has had glaucoma secondary to Sturge-Weber Syndrome in his left eye since 2002. The visual acuity in his right eye is 20/20, and in his left eye, 20/100. Following an examination in 2014, his ophthalmologist stated, “In my medical opinion, Mr. Banister has sufficient vision to perform the driving tasks required to operate a commercial vehicle.” Mr. Banister reported that he has driven tractor-trailer combinations for 36 years, accumulating 4.32 million miles. He holds a Class A CDL from South Carolina. His driving record for the last 3 years shows no crashes and no

convictions for moving violations in a CMV.

Amanuel W. Behon

Mr. Behon, 41, has a large chorioretinal scar over macula in his left eye due to a traumatic incident in 2004. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2014, his optometrist stated, "In my medical opinion, Mr. Behon's vision is sufficient to perform the tasks required to operate a commercial vehicle." Mr. Behon reported that he has driven tractor-trailer combinations for 3 years, accumulating 144,600 miles. He holds a Class A CDL from Washington. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Oscar N. Bolton

Mr. Bolton, 72, has central vision loss in his left eye due to a traumatic incident in 1985. The visual acuity in his right eye is 20/20, and in his left eye, counting fingers. Following an examination in 2013, his optometrist stated, "I see no reason, other than normal vision changes that come with aging, that Mr. Bolton should not be able to have sufficient vision to perform driving tasks required to operate a commercial vehicle." Mr. Bolton reported that he has driven straight trucks for 9 years, accumulating 324,000 miles, and tractor-trailer combinations for 30 years, accumulating 5.4 million miles. He holds a Class A CDL from Ohio. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Kenneth W. Bos

Mr. Bos, 43, has had complete loss of vision in his left eye since 2004. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an

examination in 2013, his optometrist stated, “In my opinion, Kenneth has sufficient vision to perform the driving tasks required to operate a commercial vehicle.” Mr. Bos reported that he has driven straight trucks for 9.5 years, accumulating 541,500 miles, and tractor-trailer combinations for 25 years, accumulating 56,250 miles. He holds a Class A CDL from Minnesota. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Jerry W. Brinson

Mr. Brinson, 54, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/100. Following an examination in 2013, his ophthalmologist stated, “With this level of field of vision, in my medical opinion, he can safely perform driving tasks of a commercial vehicle.” Mr. Brinson reported that he has driven straight trucks for 17 years, accumulating 552,500 miles, and tractor-trailer combinations for 20 years, accumulating 2 million miles. He holds a Class AM CDL from Georgia. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Michael C. Brown

Mr. Brown, 51, has had an idiopathic choroidal neovascular membrane in his left eye since 2010. The visual acuity in his right eye is 20/20, and in his left eye, 20/400. Following an examination in 2014, his optometrist stated, “In my medical opinion I do believe Mr. Brown has adequate vision for holding a commercial drivers [*sic*] license.” Mr. Brown reported that he has driven straight trucks for 34 years, accumulating 136,000 miles, and tractor-trailer combinations for 33 years, accumulating 2.97 million miles. He holds an operator’s license from Indiana. His driving record for the last 3 years shows no

crashes and no convictions for moving violations in a CMV.

Larry O. Burr

Mr. Burr, 60, has had anisometropic amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/50. Following an examination in 2014, his optometrist stated, "In my opinion, I believe that Larry Burr has sufficient vision required to operate a commercial vehicle." Mr. Burr reported that he has driven straight trucks for 25 years, accumulating 1.4 million miles. He holds a Class BCDM CDL from Wisconsin. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Brian L. Elliot

Mr. Elliot, 51, has a retinal detachment and macular scar in his left eye due to a traumatic incident during childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/250. Following an examination in 2013, his ophthalmologist stated, "In my opinion his visual function is adequate for him to operate a commercial vehicle." Mr. Elliot reported that he has driven straight trucks for 26 years, accumulating 624,000 miles. He holds a Class A CDL from Missouri. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Juneau A. Faulkner

Mr. Faulkner, 52, has a central macular scar in his left eye due to a traumatic incident in 1982. The visual acuity in his right eye is 20/20, and in his left eye, 20/100. Following an examination in 2013, his optometrist stated that, in his opinion, Mr. Faulkner does have sufficient vision to operate a commercial motor vehicle safely. Mr. Faulkner reported that he has driven straight trucks for 18 years, accumulating 90,000

miles, and buses for 8 years, accumulating 8,000 miles. He holds a Class B CDL from Georgia. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Gregory E. Gage

Mr. Gage, 48, has had amblyopia and strabismus in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/70. Following an examination in 2014, his optometrist stated, “Mr. Gage has amblyopia and strabismus in his left eye. The condition is stable and should be sufficient to drive a commercial vehicle.” Mr. Gage reported that he has driven straight trucks for 17 years, accumulating 595,000 miles. He holds an operator’s license from Iowa. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Robert Hall III

Mr. Hall, 49, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2014, his optometrist stated, “I Dr. Richard Shank [*sic*] Certifies [*sic*] that in my medical opinion that Mr. Robert Hall III has sufficient vision to perform the driving tasks required to operate a commercial vehicle.” Mr. Hall reported that he has driven straight trucks for 10 years, accumulating 125,000 miles. He holds an operator’s license from North Carolina. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Bradley C. Hansell

Mr. Hansell, 27, has a cataract in his left eye due to a traumatic incident during childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/200.

Following an examination in 2014, his optometrist stated, “In my medical opinion Mr. Hansell has sufficient vision to perform the driving tasks required to operate a commercial vehicle.” Mr. Hansell reported that he has driven straight trucks for 3 years, accumulating 150,000 miles. He holds an operator’s license from Oregon. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Andrew P. Hawkins

Mr. Hawkins, 25, has had a retinal scar in his right eye since birth. The visual acuity in his right eye is 20/400, and in his left eye, 20/20. Following an examination in 2014, his ophthalmologist stated, “In my medical opinion, Andrew Hawkins has sufficient vision to perform the driving tasks required to operate a commercial vehicle.” Mr. Hawkins reported that he has driven straight trucks for 4 years, accumulating 4,000 miles. He holds an operator’s license from South Carolina. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Daniel Hollins

Mr. Hollins, 37, has had refractive anisometropia with amblyopia in his left eye since 2003. The visual acuity in his right eye is 20/20, and in his left eye, 20/200. Following an examination in 2014, his optometrist stated, “It is my professional opinion that Daniel Hollins has sufficient visual skills to be able to carry out all visual tasks required to successfully operate a commercial vehicle.” Mr. Hollins reported that he has driven straight trucks for 7 years, accumulating 280,000 miles, and tractor-trailer combinations for 8 years, accumulating 728,000 miles. He holds a Class DA CDL from Kentucky. His driving record for the last 3 years shows no crashes and no convictions

for moving violations in a CMV.

Clarence H. Jacobsma

Mr. Jacobsma, 64, has had strabismic amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/150, and in his left eye, 20/20. Following an examination in 2013, his optometrist stated, "Having examined Mr. Jacobsma's eyes for the last sixteen years, I believe he has sufficient vision to operate a commercial vehicle." Mr. Jacobsma reported that he has driven straight trucks for 35 years, accumulating 350,000 miles, and tractor-trailer combinations for 35 years, accumulating 350,000 miles. He holds an operator's license from Indiana. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Samuel L. Klaphake

Mr. Klaphake, 60, has had amblyopia in his left eye since birth. The visual acuity in his right eye is 20/20, and in his left eye, counting fingers. Following an examination in 2014, his optometrist stated, "I recently saw Sam Klaphake for a complete eye examination on 2/27/2014...I am confident in my assessment of Mr. Klaphake and in the fact that he shows no signs of being a risk to himself or others in the operation of a commercial motor vehicle." Mr. Klaphake reported that he has driven straight trucks for 15 years, accumulating 1.8 million miles, and tractor-trailer combinations for 20 years, accumulating 2.4 million miles. He holds a Class A CDL from Minnesota. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Timothy L. Klose

Mr. Klose, 75, has had optic nerve cupping, astigmatism, and presbyopia in his

right eye since birth. The visual acuity in his right eye is 20/125, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, “I believe that Tim Klose has sufficient vision to perform driving tasks required to operate a commercial vehicle.” Mr. Klose reported that he has driven straight trucks for 59 years, accumulating 2.07 million miles, and tractor-trailer combinations for 51 years, accumulating 765,000 miles. He holds a Class AM CDL from Pennsylvania. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Phillip E. Mason

Mr. Mason, 53, has had amblyopia due to astigmatism in his left eye since birth. The visual acuity in his right eye is 20/20, and in his left eye, 20/200. Following an examination in 2014, his optometrist stated, “In my opinion Phillip has no vision concerns which would impact his ability to safely operate a commercial vehicle.” Mr. Mason reported that he has driven straight trucks for 43 years, accumulating 860,000 miles. He holds a Class A CDL from Missouri. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

David P. Monti

Mr. Monti, 65, has had optic neuropathy in his right eye since 1990. The visual acuity in his right eye is 20/200, and in his left eye, 20/20. Following an examination in 2013, his ophthalmologist certified that, in his medical opinion, Mr. Monti has sufficient vision to operate a commercial motor vehicle. Mr. Monti reported that he has driven straight trucks for 18 years, accumulating 270,000 miles. He holds an operator’s license from New Jersey. His driving record for the last 3 years shows no crashes and 1 conviction for a moving violation in a CMV; he was cited for unsafe operation of a motor

vehicle.

Timothy L. Morton

Mr. Morton, 40, has had amblyopia in his right eye since birth. The visual acuity in his right eye is 20/100, and in his left eye, 20/20. Following an examination in 2013, his optometrist stated, “An amblyopic patient is generally unfazed by this condition since adaptation begins from birth. I see no reason to expect his driving skills to be affected by this. He should be cleared to drive a commercial vehicle from a visual standpoint in my opinion.” Mr. Morton reported that he has driven straight trucks for 7 years, accumulating 70,000 miles, and tractor-trailer combinations for 15 years, accumulating 750,000 miles. He holds a Class A CDL from North Carolina. His driving record for the last 3 years shows 2 crashes, for which he was not cited, and no convictions for moving violations in a CMV.

Larry G. Nikkel

Mr. Nikkel, 29, has a prosthetic left eye due to a traumatic incident during childhood. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2014, his optometrist stated, “Mr. Nikkel appears to have sufficient vision to perform the driving tasks required to operate a commercial vehicle.” Mr. Nikkel reported that he has driven straight trucks for 12 years, accumulating 240,000 miles, and tractor-trailer combinations for 14 years, accumulating 560,000 miles. He holds an operator’s license from Washington. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Kenneth A. Orrino

Mr. Orrino, 62, has a chorioretinal scar to macula and optic nerve in his left eye

due to a traumatic incident in 1970. The visual acuity in his right eye is 20/20, and in his left eye, 20/60. Following an examination in 2014, his optometrist stated, "...[I]n my medical opinion, Mr. Kenneth Orrino has sufficient vision to perform the driving tasks required to operate a commercial vehicle in interstate commerce." Mr. Orrino reported that he has driven straight trucks for 44 years, accumulating 1.1 million miles, and tractor-trailer combinations for 44 years, accumulating 2.64 million miles. He holds a Class A CDL from Washington. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Ruel W. Reed

Mr. Reed, 43, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/60. Following an examination in 2013, his optometrist stated, "I don't see any reason, visually, why he should not be able to safely operate a commercial vehicle across state lines if he has already been deemed able to within North Carolina." Mr. Reed reported that he has driven buses for 4 years, accumulating 32,000 miles. He holds a Class B CDL from North Carolina. His driving record for the last 3 years shows 5 crashes, one of which he contributed to by following too closely, and no convictions for moving violations in a CMV.

Jose L. Sanchez

Mr. Sanchez, 33, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/60. Following an examination in 2014, his optometrist stated, "Mr. Sanchez has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Sanchez reported that he has driven tractor-trailer combinations for 6.5 years, accumulating 526,500 miles. He holds a Class

A CDL from Illinois. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Nicholas J. Schiltgen

Mr. Schiltgen, 21, has had Coat's Disease in his left eye since birth. The visual acuity in his right eye is 20/20, and in his left eye, counting fingers. Following an examination in 2013, his optometrist stated, "In my opinion, I do feel that Nicolas [*sic*] does have sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Schiltgen reported that he has driven straight trucks for 3 years, accumulating 90,000 miles. He holds an operator's license from Minnesota. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Warren J. Shatzer

Mr. Shatzer, 63, has had Reiter's Syndrome in his left eye since 1997. The visual acuity in his right eye is 20/25, and in his left eye, 20/400. Following an examination in 2013, his ophthalmologist stated, "On his last full examination on December 27, 2013, his best vision was 20/25 in the right eye without prescription and 20/400 in the left eye...He does have color blindness, but states that he has been driving commercially for many years; therefore, I believe that he understands how to observe the red lights...I believe that he passes the certification stating that he needs to have 120 degrees horizontally with both eyes open and since he has been driving for many years, although with color blindness, he can determine what a stop light is instructing him to do." Mr. Shatzer reported that he has driven straight trucks for 25 years, accumulating 1.38 million miles. He holds a Class A CDL from Pennsylvania. His driving record for the last 3

years shows no crashes and no convictions for moving violations in a CMV.

Loren A. Smith

Mr. Smith, 56, has a detached retina in his left eye due to a traumatic incident in 1990. The visual acuity in his right eye is 20/20, and in his left eye, 20/60. Following an examination in 2014, his optometrist stated, "I feel his vision is more than adequate to perform driving tasks required to operate a commercial vehicle." Mr. Smith reported that he has driven straight trucks for 32 years, accumulating 2.56 million miles, and tractor-trailer combinations for 32 years, accumulating 2.56 million miles. He holds a Class A3 from South Dakota. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Harlan L. Sugars

Mr. Sugars, 75, has a corneal scar in his right eye due to a traumatic incident during childhood. The visual acuity in his right eye is 20/400, and in his left eye, 20/20. Following an examination in 2013, his optometrist stated, "I feel that Mr. Sugars has the vision to operate a commercial vehicle." Mr. Sugars reported that he has driven tractor-trailer combinations for 55 years, accumulating 4.68 million miles. He holds a Class A CDL from Iowa. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Seth D. Sweeten

Mr. Sweeten, 36, has a retinal detachment in his left eye due to a traumatic incident in 2011. The visual acuity in his right eye is 20/15, and in his left eye, hand motion. Following an examination in 2014, his ophthalmologist stated, "I believe his vision is sufficient to perform the tasks required of operating a commercial vehicle in the

same capacity that he has been for 17 years.” Mr. Sweeten reported that he has driven straight trucks for 2 years, accumulating 100,000 miles, and tractor-trailer combinations for 17 years, accumulating 901,000 miles. He holds a Class A CDL from Idaho. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

George R. Tieskoetter

Mr. Tieskoetter, 57, has had congenital optic nerve coloboma in his right eye since birth. The visual acuity in his right eye is counting fingers, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, “It is in my medical opinion that Mr. Tieskoetter’s stable visual difficulties do not pose a safety threat associated with his ability to drive and he should be granted a commercial driver’s license.” Mr. Tieskoetter reported that he has driven tractor-trailer combinations for 33 years, accumulating 1.98 million miles. He holds a Class A CDL from Iowa. His driving record for the last 3 years shows no crashes and one conviction for a moving violation in a CMV; he exceeded the speed limit by 10 mph.

Ronald L. Weiss

Mr. Weiss, 49, has an injury to a muscle that causes the left eye to wander inward and downward due to a traumatic incident in 2010. The visual acuity in his right eye is 20/20, and in his left eye, 20/20, however, he is unable to use both eyes simultaneously. Following an examination in 2013, his optometrist stated, “In my opinion, Ron should be able to perform the driving tasks to safely operate a commercial vehicle.” Mr. Weiss reported that he has driven straight trucks for 30 years, accumulating 450,000 miles, and tractor-trailer combinations for 25 years, accumulating 375,000 miles. He holds a Class

A CDL from Minnesota. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

John T. White, Jr.

Mr. White, 53, has retinal damage in his left eye due to a traumatic incident in 2003. The visual acuity in his right eye is 20/20, and in his left eye, 20/400. Following an examination in 2014, his optometrist stated, “On examination today, his visual acuity without correction of the right eye was 20/20 and the left 20/400...To the best of my knowledge he should be able to operate a commercial vehicle.” Mr. White reported that he has driven tractor-trailer combinations for 29 years, accumulating 2.9 million miles. He holds a Class A CDL from North Carolina. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Henry P. Wurtz

Mr. Wurtz, 53, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/200. Following an examination in 2013, his optometrist stated, “His condition has been stable and in my medical opinion, he has sufficient vision to perform the driving tasks required to operate a commercial vehicle.” Mr. Wurtz reported that he has driven tractor-trailer combinations for 20 years, accumulating 70,000 miles. He holds a Class A CDL from South Dakota. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

FMCSA has evaluated the eligibility of the 34 applicants and determined that granting the exemptions to these individuals would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation

49 CFR 391.41(b)(10). If the Agency does not receive any comments that indicate a driver's ability would not achieve the aforementioned level of safety, the Agency will grant the drivers an exemption the day after the comment period closes.

Vision and Driving Experience of the Applicants

The vision requirement in the FMCSRs provides:

A person is physically qualified to drive a commercial motor vehicle if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of at least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing red, green, and amber (49 CFR 391.41(b)(10)).

FMCSA recognizes that some drivers do not meet the vision requirement but have adapted their driving to accommodate their vision limitation and demonstrated their ability to drive safely. The 34 exemption applicants listed in this notice are in this category. They are unable to meet the vision requirement in one eye for various reasons, and in most cases their eye conditions were not recently developed. Nineteen of the applicants were either born with their vision impairments or have had them since childhood. The 15 individuals that sustained their vision conditions as adults have had it for a period of 4 to 44 years.

Although each applicant has one eye which does not meet the vision requirement in 49 CFR 391.41(b)(10), each has at least 20/40 corrected vision in the other eye, and in a doctor's opinion, has sufficient vision to perform all the tasks necessary to operate a

CMV. Doctors' opinions are supported by the applicants' possession of valid commercial driver's licenses (CDLs) or non-CDLs to operate CMVs. Before issuing CDLs, States subject drivers to knowledge and skills tests designed to evaluate their qualifications to operate a CMV.

All of these applicants satisfied the testing requirements for their State of residence. By meeting State licensing requirements, the applicants demonstrated their ability to operate a CMV, with their limited vision, to the satisfaction of the State.

While possessing a valid CDL or non-CDL, these 34 drivers have been authorized to drive a CMV in intrastate commerce, even though their vision disqualified them from driving in interstate commerce. The qualifications, experience, and medical condition of each applicant is stated and discussed in detail above.

Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the vision requirement in 49 CFR 391.41(b)(10) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. Without the exemption, applicants will continue to be restricted to intrastate driving. With the exemption, applicants can drive in interstate commerce. Thus, our analysis focuses on whether an equal or greater level of safety is likely to be achieved by permitting each of these drivers to drive in interstate commerce as opposed to restricting him or her to driving in intrastate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered the medical reports about the applicants' vision as well as their driving records and experience with the vision deficiency.

To qualify for an exemption from the vision requirement, FMCSA requires a person to present verifiable evidence that he/she has driven a commercial vehicle safely with the vision deficiency for the past 3 years. Recent driving performance is especially important in evaluating future safety, according to several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a driver is his/her past record of crashes and traffic violations. Copies of the studies may be found at Docket Number FMCSA-1998-3637.

FMCSA believes it can properly apply the principle to monocular drivers, because data from the Federal Highway Administration's (FHWA) former waiver study program clearly demonstrate the driving performance of experienced monocular drivers in the program is better than that of all CMV drivers collectively (See 61 FR 13338, 13345, March 26, 1996). The fact that experienced monocular drivers demonstrated safe driving records in the waiver program supports a conclusion that other monocular drivers, meeting the same qualifying conditions as those required by the waiver program, are also likely to have adapted to their vision deficiency and will continue to operate safely.

The first major research correlating past and future performance was done in England by Greenwood and Yule in 1920. Subsequent studies, building on that model, concluded that crash rates for the same individual exposed to certain risks for two different time periods vary only slightly (See Bates and Neyman, University of California Publications in Statistics, April 1952). Other studies demonstrated theories of predicting crash proneness from crash history coupled with other factors. These factors – such as age, sex, geographic location, mileage driven and conviction history – are used every day

by insurance companies and motor vehicle bureaus to predict the probability of an individual experiencing future crashes (See Weber, Donald C., “Accident Rate Potential: An Application of Multiple Regression Analysis of a Poisson Process,” Journal of American Statistical Association, June 1971). A 1964 California Driver Record Study prepared by the California Department of Motor Vehicles concluded that the best overall crash predictor for both concurrent and non-concurrent events is the number of single convictions. This study used 3 consecutive years of data, comparing the experiences of drivers in the first 2 years with their experiences in the final year.

Applying principles from these studies to the past 3-year record of the 34 applicants, two of the drivers were involved in crashes and two were convicted of moving violations in a CMV. All the applicants achieved a record of safety while driving with their vision impairment, demonstrating the likelihood that they have adapted their driving skills to accommodate their condition. As the applicants’ ample driving histories with their vision deficiencies are good predictors of future performance, FMCSA concludes their ability to drive safely can be projected into the future.

FMCSA believes that the applicants’ intrastate driving experience and history provide an adequate basis for predicting their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways on the interstate system and on other roads built to interstate standards. Moreover, driving in congested urban areas exposes the driver to more pedestrian and vehicular traffic than exists on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances between them are more compact. These conditions tax visual capacity and driver response just as intensely as interstate driving

conditions. The veteran drivers in this proceeding have operated CMVs safely under those conditions for at least 3 years, most for much longer. Their experience and driving records lead us to believe that each applicant is capable of operating in interstate commerce as safely as he/she has been performing in intrastate commerce.

Consequently, FMCSA finds that exempting these applicants from the vision requirement in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption. For this reason, the Agency is granting the exemptions for the 2-year period allowed by 49 U.S.C. 31136(e) and 31315 to the 34 applicants listed in this notice.

We recognize that the vision of an applicant may change and affect his/her ability to operate a CMV as safely as in the past. As a condition of the exemption, therefore, FMCSA will impose requirements on the 34 individuals consistent with the Grandfathering provisions applied to drivers who participated in the Agency's vision waiver program.

Those requirements are found at 49 CFR 391.64(b) and include the following: (1) that each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirement in 49 CFR 391.41(b)(10) and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver

must have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for 2 years unless revoked earlier by FMCSA. The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. The Agency will consider all comments received before the close of business [Insert date 30 days after date of publication in the FEDERAL REGISTER]. Comments will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. The Agency will file comments received after the comment closing date in the public docket, and will consider them to the extent practicable. In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should monitor the public docket for new material.

Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an e-mail address, or a phone number in the body of

your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov> and in the search box insert the docket number FMCSA-2014-0006 and click the search button. When the new screen appears, click on the blue “Comment Now!” button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period and may change this proposed rule based on your comments. FMCSA may issue a final rule at any time after the close of the comment period.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, To submit your comment online, go to <http://www.regulations.gov> and in the search box insert the docket number FMCSA-2014-0006 and click “Search.” Next, click “Open Docket Folder” and you will find all documents and comments related to the proposed rulemaking.

Issued on: June 9, 2014.

Larry W. Minor,
Associate Administrator for Policy.

Publication Date: 06/19/2014]

[FR Doc. 2014-14335 Filed 06/18/2014 at 8:45 am;